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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

GOOGLE, INC., a Delaware corporation, Plaintiff, v. AFFINITY ENGINES, INC., a Delaware corporation, Defendant.	CASE NO. C 05-0598 JW (HRL) **STATEMENT REGARDING ADR PROCEDURE**

Counsel for Affinity Engines, Inc. ("AEI") hereby files this "Statement" regarding ADR Procedure. AEI and Google have attempted to settle a pending state court dispute between the parties on three occasions, once through mediation in November 2004, and twice through settlement conferences between the parties. The pending state court action, filed by AEI in March 2004, is referenced in AEI's recently filed motion to dismiss and/or stay proceedings in this case. The instant federal action involves the same underlying facts and presents the same legal questions as the pending state court action.

AEI contends that the outcome of the state court action (which is moving toward ultimate resolution) would likely have dispositive effect on Google's claims in the present action.

Dockets.Justia.com

Accordingly, any participation by AEI in ADR at this time with respect to this action would be premature. However, should the Court deny AEI's pending motion to dismiss and/or stay the instant action, AEI agrees to participate in ADR on the condition that the parties seek resolution of all issues in both the state and federal case. On this condition, AEI hereby informs the Court that it agrees to participate in the following ADR process:

Court Processes:

__ Arbitration __ ENE X **Mediation**

Private Process:

__ Private ADR (*please identify process and provider*)

Dated: May 31, 2005

Respectfully submitted,

ORRICK, HERRINGTON & SUTCLIFFE LLP

/s/ G. Hopkins Guy, III

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